

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 124

HOUSE BILL 2202

AN ACT

AMENDING SECTION 11-584, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 32, SECTION 2; AMENDING SECTION 11-584, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 161, SECTION 1; RELATING TO PUBLIC DEFENDERS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-584, Arizona Revised Statutes, as amended by
3 Laws 2000, chapter 32, section 2, is amended to read:

4 11-584. Public defender; duties; reimbursement

5 A. The public defender shall perform the following duties:

6 1. Upon order of the court, defend, advise and counsel without expense
7 to the defendant, subject to the ~~provisions of~~ subsection B of this section,
8 any person who is not financially able to employ counsel in the following
9 proceedings AND CIRCUMSTANCES:

10 (a) Offenses triable in the superior or justice courts at all stages
11 of the proceedings, including the preliminary examination, but only for those
12 offenses which by law require that counsel be provided.

13 (b) Extradition hearings.

14 (c) Sanity hearings only when appointed by the court under title 36,
15 chapter 5.

16 (d) Involuntary commitment hearings held pursuant to title 36, chapter
17 18, only if appointed by the court.

18 (e) INVOLUNTARY COMMITMENT HEARINGS HELD PURSUANT TO TITLE 36, CHAPTER
19 37, WHEN APPOINTED BY THE COURT AS PROVIDED IN SECTION 36-3704, SUBSECTION
20 C, IF THE COURT APPOINTS THE PUBLIC DEFENDER AND THE BOARD OF SUPERVISORS HAS
21 ADVISED THE PRESIDING JUDGE OF THE COUNTY THAT THE PUBLIC DEFENDER IS
22 AUTHORIZED TO ACCEPT THE APPOINTMENT.

23 ~~(e)~~ (f) Juvenile delinquency and incorrigibility proceedings only
24 when appointed by the court under section 8-221.

25 ~~(f)~~ (g) Appeals to a higher court or courts.

26 ~~(g)~~ (h) All juvenile proceedings other than delinquency and
27 incorrigibility proceedings under subdivision ~~(e)~~ (f), including serving as
28 a guardian ad litem, when appointed by the court pursuant to section 8-221,
29 if the court appoints the public defender and the board of supervisors has
30 advised the presiding judge of the county that the public defender is
31 authorized to accept the appointment.

32 ~~(h)~~ (i) All mental health hearings regarding release recommendations
33 held before the psychiatric security review board pursuant to section
34 13-3994, when appointed by the court as provided in section 31-502,
35 subsection A, paragraph 8, if the court appoints the public defender and the
36 board of supervisors has advised the presiding judge of the superior court
37 in the county that the public defender is authorized to accept the
38 appointment.

39 (j) AS ATTORNEYS PURSUANT TO TITLE 14, CHAPTER 5, ARTICLE 4 OF ADULTS
40 WHO ARE ALLEGEDLY UNABLE TO EFFECTIVELY MANAGE THEIR AFFAIRS OR PRESERVE
41 THEIR ESTATES, IF THE COURT APPOINTS THE PUBLIC DEFENDER AND THE BOARD OF
42 SUPERVISORS HAS ADVISED THE PRESIDING JUDGE OF THE COUNTY THAT THE PUBLIC
43 DEFENDER IS AUTHORIZED TO ACCEPT THE APPOINTMENT.

1 2. Keep a record of all services rendered by the public defender in
2 that capacity and file with the board of supervisors an annual report of
3 those services.

4 3. By December 1 of each year, file with the presiding judge of the
5 superior court, the chief probation officer and the board of supervisors an
6 annual report on the average cost of defending a felony case.

7 B. Although the services of the public defender or court appointed
8 counsel shall be without expense to the defendant, the court may make the
9 following assessments:

10 1. At the time of the defendant's initial appearance, order an
11 indigent administrative assessment of not more than twenty-five dollars.

12 2. At the time of the juvenile's advisory hearing, order an
13 administrative assessment fee of not more than twenty-five dollars to be paid
14 by the juvenile or the juvenile's parent or guardian.

15 3. Require that the defendant, including a defendant who is placed on
16 probation, repay to the county a reasonable amount to reimburse the county
17 for the cost of the defendant's legal defense. Reimbursement for legal
18 services provided to a juvenile shall be ordered pursuant to section 8-221.

19 C. In determining the amount and method of payment the court shall
20 take into account the financial resources of the defendant and the nature of
21 the burden that the payment will impose.

22 D. Assessments collected pursuant to subsection B of this section
23 shall be paid into the county general fund in the account designed for use
24 solely by the public defender and court appointed counsel to defray the costs
25 of public defenders and court appointed counsel. The assessments shall
26 supplement, not supplant, funding provided by counties for public defense,
27 legal defense and contract indigent defense counsel in each county.

28 Sec. 2. Section 11-584, Arizona Revised Statutes, as amended by Laws
29 2001, chapter 161, section 1, is amended to read:

30 11-584. Public defender; duties; reimbursement

31 A. The public defender shall perform the following duties:

32 1. Upon order of the court, defend, advise and counsel without expense
33 to the defendant, subject to the provisions of subsection B of this section,
34 any person who is not financially able to employ counsel in the following
35 proceedings AND CIRCUMSTANCES:

36 (a) Offenses triable in the superior COURT or justice courts at all
37 stages of the proceedings, including the preliminary examination, but only
38 for those offenses which by law require that counsel be provided.

39 (b) Extradition hearings.

40 (c) Sanity hearings only when appointed by the court under title 36,
41 chapter 5.

42 (d) Involuntary commitment hearings held pursuant to title 36, chapter
43 18, only if appointed by the court.

44 (e) Involuntary commitment hearings held pursuant to title 36, chapter
45 37, when appointed by the court as provided in section 36-3704, subsection

1 C, if the court appoints the public defender and the board of supervisors has
2 advised the presiding judge of the county that the public defender is
3 authorized to accept the appointment.

4 (f) Commitment hearings held pursuant to section 13-4518 only if
5 appointed by the court.

6 (g) Juvenile delinquency and incorrigibility proceedings only when
7 appointed by the court under section 8-221.

8 (h) Appeals to a higher court or courts.

9 (i) All juvenile proceedings other than delinquency and
10 incorrigibility proceedings under subdivision (g), including serving as a
11 guardian ad litem, when appointed by the court pursuant to section 8-221, if
12 the court appoints the public defender and the board of supervisors has
13 advised the presiding judge of the county that the public defender is
14 authorized to accept the appointment.

15 (j) All mental health hearings regarding release recommendations held
16 before the psychiatric security review board pursuant to section 13-3994,
17 when appointed by the court as provided in section 31-502, subsection A,
18 paragraph 9, if the court appoints the public defender and the board of
19 supervisors has advised the presiding judge of the superior court in the
20 county that the public defender is authorized to accept the appointment.

21 (k) AS ATTORNEYS PURSUANT TO TITLE 14, CHAPTER 5, ARTICLE 4 OF ADULTS
22 WHO ARE ALLEGEDLY UNABLE TO EFFECTIVELY MANAGE THEIR AFFAIRS OR PRESERVE
23 THEIR ESTATES, IF THE COURT APPOINTS THE PUBLIC DEFENDER AND THE BOARD OF
24 SUPERVISORS HAS ADVISED THE PRESIDING JUDGE OF THE COUNTY THAT THE PUBLIC
25 DEFENDER IS AUTHORIZED TO ACCEPT THE APPOINTMENT.

26 2. Keep a record of all services rendered by the public defender in
27 that capacity and file with the board of supervisors an annual report of
28 those services.

29 3. By December 1 of each year, file with the presiding judge of the
30 superior court, the chief probation officer and the board of supervisors an
31 annual report on the average cost of defending a felony case.

32 B. Although the services of the public defender or court appointed
33 counsel shall be without expense to the defendant, the court may make the
34 following assessments:

35 1. At the time of the defendant's initial appearance, order an
36 indigent administrative assessment of not more than twenty-five dollars.

37 2. At the time of the juvenile's advisory hearing, order an
38 administrative assessment fee of not more than twenty-five dollars to be paid
39 by the juvenile or the juvenile's parent or guardian.

40 3. Require that the defendant, including a defendant who is placed on
41 probation, repay to the county a reasonable amount to reimburse the county
42 for the cost of the defendant's legal defense. Reimbursement for legal
43 services provided to a juvenile shall be ordered pursuant to section 8-221.

1 C. In determining the amount and method of payment the court shall
2 take into account the financial resources of the defendant and the nature of
3 the burden that the payment will impose.

4 D. Assessments collected pursuant to subsection B of this section
5 shall be paid into the county general fund in the account designed for use
6 solely by the public defender and court appointed counsel to defray the costs
7 of public defenders and court appointed counsel. The assessments shall
8 supplement, not supplant, funding provided by counties for public defense,
9 legal defense and contract indigent defense counsel in each county.

10 Sec. 3. Conditional enactment

11 Section 11-584, Arizona Revised Statutes, as amended by Laws 2001,
12 chapter 161, section 1 and section 2 of this act is effective on October 1,
13 2003 unless the condition specified in Laws 2001, chapter 185, section 3 is
14 met.

APPROVED BY THE GOVERNOR MAY 1, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2002.

Passed the House April 4, 2002,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 25, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

Charmen Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2002

at 3:23 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 1 day of

May, 2002,

at 3:08 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2202

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2nd day of May, 2002

at 4:23 o'clock P M.

[Signature]
Secretary of State